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United States  
Department of  
Agriculture

Food and  
Consumer  
Service

DEC 22 1998

Reply to  
Attn. of: SP 99-09

Subject: Commercially Prepared Fresh Food Items--Including Those  
Containing Meat (Pizza, Sandwiches, etc.)

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas,  
(Child Nutrition Programs) Missouri ED, Montana OPI,  
Nebraska ED, North Dakota,  
South Dakota, Utah and  
Wyoming ED

This memorandum replaces memorandum SP 94-C-29. This memorandum is substantially the same as SP 94-C-29, but does revise the meat sandwich inspection requirement guidance. SP 94-C-29 is now obsolete with the issuance of this memorandum.

In recent years school food operations have increased their use of fresh, ready-to-eat food items purchased from commercial restaurants, chiefly from outlets of nationally-known restaurant chains such as Pizza Hut, Taco Bell, and Subway. These items, sometimes referred to as examples of branded (i.e., name-brand) foods, are being offered in school food services both in "a la carte" service and as part of reimbursable meals in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

The following issues arise in connection with this practice:

1. **Food service management:** No school operating the NSLP or SBP may enter into a sales agency agreement with a commercial vendor. Please see memorandum SP 94-C-8 for a full discussion of this issue and for current guidance.
2. **Procurement:** The purchase of any food item for use in the nonprofit school food service must be governed by the rules and procedures which apply to all procurement in the NSLP and SBP. The purchase of particular branded items which reflect student taste

preferences are to be accommodated within the standard procurement procedures.

3. **Menu planning alternative requirements:** Any fresh, ready-to-eat commercial food items which are served as part of reimbursable NSLP or SBP meals must be accompanied with sufficient information to permit nutrient analysis as appropriate for the menu planning alternative that the school uses. If there is a food-based menu planning alternative in use, the vendor may be required by the school to provide a product specification sheet to document meal pattern contributions as well as nutrient content.
4. **Local health requirements:** The school must check to be certain that arrangements for the delivery of fresh food items conform to all State and/or local health department requirements.
5. **USDA Food Safety and Inspection Service (FSIS) inspection requirements:** These requirements apply to any commercial vendor of food items which contain meat, including fresh ready-to-eat items prepared in restaurants, when these items are sold for re-sale or service by a second entity (such as a school food service). FSIS regulations require a meat inspection at the time the items are processed in their final ready-for-sale form.

There are two exceptions to the above requirement. First, fresh, ready-to-eat **sandwiches** with any type of meat, including hamburger or chicken, are **not subject** to FSIS inspection **whatsoever**. Applicable State and local health department requirements would apply, as noted above. Second, certain types of fresh ready-to-eat meat **pizzas** are subject to FSIS inspection requirements, but the restaurants producing them may claim an **exemption** from the requirement (see below).

Apart from the allowable exceptions, **NO SCHOOL IN THE NSLP OR SBP MAY PURCHASE AND SERVE ANY FRESH, READY-TO-EAT FOOD**

ITEM CONTAINING MORE THAN 3 PERCENT RAW MEAT OR MORE THAN 2 PERCENT COOKED MEAT (BY WEIGHT) WHICH HAS NOT RECEIVED THE REQUIRED FSIS INSPECTION. Schools should be made aware that the great majority of food items containing meat (including meat tacos, and fried or otherwise cooked chicken) that are served in restaurants would require FSIS inspection if they were to be purchased from a restaurant for resale in school meal programs. PLEASE NOTE THAT ALL QUESTIONS ABOUT FSIS INSPECTION REQUIREMENTS, EXCEPTIONS AND EXEMPTIONS MUST BE ADDRESSED DIRECTLY TO FSIS.

#### EXEMPTION FROM FSIS INSPECTION REQUIREMENTS FOR PIZZA

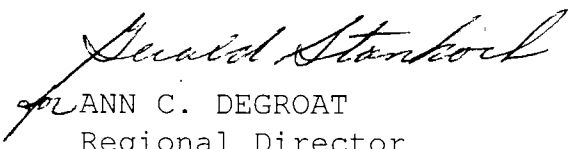
As noted above, sandwiches with meat do not fall under FSIS inspection requirements, but all other fresh, ready-to-eat food items containing more than a very small amount of meat, and sold by a restaurant to another entity for resale, are subject to such inspection. We have been told that only one type of fresh, ready-to-eat food item containing meat, sold by a restaurant for resale by another entity, may claim exemption from FSIS inspection requirements, and that is pizza that meets certain requirements. The FSIS Final Rule that establishes procedures for obtaining exemption from its inspection requirements for fresh meat pizza was published in August 1992. The principal provisions of the Rule are:

- meat or poultry products used on the pizza must have been previously inspected and passed by FSIS in a cooked or cured ready-to-eat form.
- Pizzas must be served in public or private nonprofit institutions.
- Pizzas must be ready-to-eat with no further cooking or preparation needed.
- Pizzas must be transported directly to the receiving institution by employees of the preparing restaurant or firm, receiving institution or food service management company employed by the receiving institution.

- Restaurants/firms claiming exemption from FSIS inspection are not required to have prior approval from FSIS in order to operate under this exempt status. Adhering to the limitations on operations and sales particular to this exemption establishes the exemption. Firms must also comply with specific provisions of the Food and Drug Administration's 1976 Food Service Sanitation Manual which have been incorporated by reference into the Rule. In addition, the Rule establishes specific requirements for the manual or machine cleaning of utensils and equipment. Any restaurant seeking to claim this exemption must obtain full information and guidance from FSIS in order to learn what it must do to comply fully.
- FSIS may withdraw or modify the exemption for any restaurant/firm if necessary to ensure food safety and public health. The Rule establishes due process procedures for taking such actions.
- Questions about the application and interpretation of this Rule will be addressed to the FSIS, not to the Food and Nutrition Service.

Restaurants/firms claiming the exemption are free to sell fresh pizzas with meat or poultry toppings meeting the above-referenced criteria to school food authorities participating in the NSLP or SBP. Under this FSIS exemption State and local health inspection programs have primary responsibility for sanitation oversight, but FSIS also reserves the right to conduct any inspections it deems appropriate.

Please contact our office if you have any questions.

  
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